

## **REMARKS**

### I. STATUS OF THE CLAIMS

Various of the claims are amended herein, simply to improve form.

New claims 68-71 are added. Support for the new claims is found, for example, on page 20, lines 1-6, of the specification.

In view of the above, it is respectfully submitted that claims 1-71 are currently pending.

### II. REJECTION OF CLAIMS 1, 19 AND 31 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING OVER CLAIM 1 OF U.S. PATENT APPLICATION 09/816,693 IN VIEW OF KEKIC ET AL., U.S. PATENT NO. 6,664,978

The present invention as recited, for example, in claim 1, relates to a gateway responsible for managing one or more network elements. The gateway maintains usage information detailing the amount of usage of the gateway in managing the one or more network elements. As recited, for example, in claim 1, the gateway is operable to communicate the usage information to a usage management system.

Kekic relates to managing network elements.

**However, Kekic does not disclose or suggest that a gateway maintains usage information detailing the amount of usage of the gateway in managing network elements.**

In the outstanding Office Action, the Examiner asserts that column 16, lines 31-47, of Kekic, relates to a gateway maintaining usage information detailing the amount of usage of the gateway in managing network elements.

Column 16, lines 31-47, of Kekic, relate to operation 504 in FIG. 5A. As can be seen from column 16, lines 31-47, and FIG. 5A of Kekic, these portions of Kekic simply provide a list of which network elements are to be managed by managed network server 314. More specifically, as indicated in column 16, lines 31-47, of Kekic, the server 314 checks a startup file containing a list of managed network elements. If network elements are in the list, then the network elements will be managed.

Accordingly, it is respectfully submitted that no portion of Kekic discloses or suggests that a gateway maintains usage information detailing the amount of usage of the gateway in managing network elements.

Further, please note that claim 1 in US patent application 09/816,693 was amended in an Amendment filed September 20, 2004, in that application. Therefore, it is respectfully submitted that claim 1 in US patent application 09/816,693 may be different from when the claim was reviewed by the Examiner for this rejection.

In view of the above, it is respectfully submitted that the rejection is overcome.

**III. REJECTION OF CLAIM 56 UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING OVER CLAIM 1 OF US PATENT APPLICATION 09/816,693 IN VIEW OF KUNG, US PATENT NO. 6,775,267**

Claim 56 recites a method for providing to a customer at least one gateway for use in managing one or more network elements, wherein the customer is charged a fee that is based at least in part on the amount of usage of said at least one gateway.

As recited, for example, in claim 56, the method comprises (a) providing to the customer at least one gateway for use in managing one or more network elements; (b) said at least one gateway comprising functionality to track the amount of its usage; and (c) billing the customer based at least in part on the amount of usage of said at least one gateway.

Kung discloses a system in which a user of a first terminal communicates with a distant terminal via a variable bit rate communication. The user is billed in accordance with the bit rate of the communication.

Therefore, Kung relates to charging for a communication based on the bit rate of the communication.

However, Kung does not disclose or suggest a gateway comprising functionality to track the amount of its usage for managing a network element, and that a customer is billed based on the amount of usage of the gateway.

Further, please note that claim 1 in US patent application 09/816,693 was amended in an Amendment filed September 20, 2004, in that application. Therefore, it is respectfully submitted that claim 1 in US patent application 09/816,693 may be different from when the claim was reviewed by the Examiner for this rejection.

In view of the above, it is respectfully submitted that the rejection is overcome.

IV. REJECTION OF CLAIMS 7-10, 23-25 AND 35-38 UNDER 35 USC 112, SECOND PARAGRAPH

The claims are amended herein, to thereby overcome the rejection.

V. REJECTION OF CLAIMS 1-55 UNDER 35 USC 102(E) AS BEING ANTICIPATED BY KEKIC

The present invention as recited, for example, in claim 1, relates to a gateway responsible for managing one or more network elements. The gateway maintains usage information detailing the amount of usage of the gateway in managing the one or more network elements. As recited, for example, in claim 1, the gateway is operable to communicate the usage information to a usage management system.

Kekic relates to managing network elements.

**However, Kekic does not disclose or suggest that a gateway maintains usage information detailing the amount of usage of the gateway in managing network elements.**

In the outstanding Office Action, the Examiner asserts that column 16, lines 31-47, of Kekic, relates to a gateway maintaining usage information detailing the amount of usage of the gateway in managing network elements.

Column 16, lines 31-47, of Kekic, relate to operation 504 in FIG. 5A. As can be seen from column 16, lines 31-47, and FIG. 5A of Kekic, these portions of Kekic simply provide a list of which network elements are to be managed by managed network server 314. More specifically, as indicated in column 16, lines 31-47, of Kekic, the server 314 checks a startup file containing a list of managed network elements. If network elements are in the list, then the network elements will be managed.

Accordingly, it is respectfully submitted that no portion of Kekic discloses or suggests that a gateway maintains usage information detailing the amount of usage of the gateway in managing network elements.

The above comments are specifically directed to claim 1. However, it is respectfully submitted that the comments would be helpful in understanding various differences of various other claims over Kekic.

Please note that new claims 66-71 are added. These new claims relate to charging a user of a gateway a fee based on usage information of a gateway. Kekic does not disclose or suggest such features.

In view of the above, it is respectfully submitted that the rejection is overcome.

VI. REJECTION OF CLAIMS 56-67 UNDER 35 USC 103(A) AS BEING UNPATENTABLE OVER KEKIC IN VIEW OF KUNG

Claim 56 recites a method for providing to a customer at least one gateway for use in managing one or more network elements, wherein the customer is charged a fee that is based at least in part on the amount of usage of said at least one gateway.

As recited, for example, in claim 56, the method comprises (a) providing to the customer at least one gateway for use in managing one or more network elements; (b) said at least one gateway comprising functionality to track the amount of its usage; and (c) billing the customer based at least in part on the amount of usage of said at least one gateway.

Kung discloses a system in which a user of a first terminal communicates with a distant terminal via a variable bit rate communication. The user is billed in accordance with the bit rate of the communication.

Therefore, Kung relates to charging for a communication based on the bit rate of the communication.

However, Kung does not disclose or suggest a gateway comprising functionality to track the amount of its usage for managing a network element, and that a customer is billed based on the amount of usage of the gateway.

The above comments for distinguishing over Kekic also apply here, where appropriate.

The above comments are specifically directed to claim 56. However, it is respectfully submitted that the comments would be helpful in understanding various differences of various other claims over Kekic and Kung.

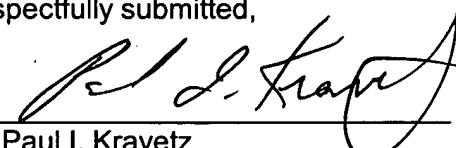
In view of the above, it is respectfully submitted that the rejection is overcome.

VII. CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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